

National Assembly for Wales
Children, Young People and Education Committee
QW 25
Qualifications Wales Bill
Evidence from : Undeb Cenedlaethol Athrawon (UCAC)

Consultation questions

The Explanatory Memorandum prepared by the Welsh Government describes the Bill's main purposes in the following terms:

The Bill provides for the establishment of Qualifications Wales as the independent regulatory body responsible for the recognition of awarding bodies and the review and approval of non-degree qualifications in Wales. Qualifications Wales will also, along with the Welsh Ministers, be responsible for preparing a list of priority qualifications, designated as such by reason of the significance of the qualification, having regard to the needs of learners and employers in Wales. The intention is, through the establishment of Qualifications Wales, to strengthen the oversight of qualifications and of the qualification system in Wales.

The Bill is intended to address the four main limitations of the current system. These are outlined in the Explanatory Memorandum as:

- there is no single organisation that is dedicated to ensuring the effectiveness of qualifications and the qualification system;
- there are no powers to prioritise qualifications and to thereby focus regulatory activity where it is most needed – with the result that there are large numbers of regulated qualifications but limited resources to ensure effectiveness;
- there are no powers to select a single provider of a given qualification to ensure that learners across Wales take the same qualification; and

- the capacity to drive forward the strategic development of qualifications within the current arrangements is too limited – creating a risk that Wales’ qualifications will not be held in as high esteem, nationally and internationally, as those in other nations.

The Bill provides Qualifications Wales with the following principal aims, and it must act compatibly with these when exercising its functions:

- a) Ensuring that qualifications, and the Welsh qualification system, are effective for meeting the reasonable needs of learners in Wales; and
- b) Promoting public confidence in qualifications and in the Welsh qualification system.

Question 1 – Is there a need for a Bill for the purposes outlined above?

Yes. UCAC welcomes a Bill that creates an independent body to regulate qualifications in Wales, and a Bill that takes that role out of the hands of the Welsh Government. We have long argued that it is inappropriate for the Welsh Government (or any Government), which sets policy on education and qualifications, to regulate those qualifications due to obvious risks relating to conflict of interest and the negative influence of internal and cross-border political competition on the credibility of the system.

There is a need to ensure that the body is independent of the Welsh Government’s Department for Education and Skills, although it receives its remit from that Department. We believe that such a body is necessary to ensure that we have credible qualifications, and that practitioners, stakeholders and the people of Wales have confidence in the regulatory system.

It is important to have a Bill that gives the body legal status and that gives a robust outline of key issues and puts them on a statutory footing.

If you believe there is a need for the Bill, what are the main issues that need to be resolved?

To ensure:

- a high-quality qualifications regime with a variety of qualifications that provide suitable opportunities for learners in Wales
- that qualifications have credibility in Wales and internationally
- the portability of qualifications within Wales and internationally
- that the qualifications regime meets the requirements of Wales, e.g. when choosing the content of qualifications to be approved, consideration is given to the labour market in Wales, Wales's research needs in the higher education sector, and cultural and linguistic issues such as the importance of the Welsh language in the workplace
- that Qualifications Wales is itself a bilingual organisation, and that it ensures that the regime is bilingual, with sufficient Welsh-language resources being commissioned to support such qualifications (and published at the same time) as those supported by English-medium resources
- that current learners are not disadvantaged (and do not feel that they are disadvantaged) by the establishment of the new body or during the transitional period
- that there are clear arrangements to communicate with stakeholders, and that Qualifications Wales will ensure that teachers and lecturers have access to high-quality professional development to meet the needs of their pupils in terms of preparing for external qualifications

How significant is this issue? (Please select one option)

- a high-quality qualifications regime with a variety of qualifications that provide suitable opportunities for learners in Wales
- that qualifications have credibility in Wales and internationally, and the portability of qualifications within Wales and internationally

1

<ul style="list-style-type: none"> • There is a need to ensure Welsh-medium provision. There is a wide range of subjects available through the medium of Welsh, with an increasing number of additional vocational courses available over recent years following the introduction of the Learning and Skills Measure, although some providers have been slow to provide courses through the medium of Welsh. Welsh-medium provision must be at the heart of any new system. There is still room for improvement regarding Welsh-medium materials and publishing timeliness. We believe that the process of ensuring that Qualifications Wales is a bilingual body that operates bilingually and provides a bilingual service needs to be planned • that there are clear arrangements to communicate with stakeholders, and that Qualifications Wales will ensure that teachers and lecturers have access to high-quality professional development to meet the needs of their pupils in terms of preparing for external qualifications <p>It is vital to ensure that these issues are addressed in order to guarantee standards and important opportunities for learners in every sector in Wales.</p>	
<ul style="list-style-type: none"> • that current learners are not disadvantaged (and do not feel that they are disadvantaged) by the establishment of the new body or during the transitional period 	2
<p>3- Ensuring the independence of Qualifications Wales. There is a need to ensure the credibility of the Regulator's role and, in the wake of this, the credibility of qualifications in Wales. This is vital, but the Bill will tackle the issue of independence, and that is the only reason for defining it as a minor problem.</p>	

Question 2 – Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?

Yes.

On the whole, the Bill achieves the objectives set out in the Explanatory Memorandum, e.g. issues regarding its establishment as an independent body, and the need to meet the needs of learners. We believe that it is vital to ensure that we have an independent body, and the relationship outlined between the Government, the Assembly and the body offers a model that can work in this regard.

On the other hand, we firmly believe that there is a need to ensure that Qualifications Wales gives due and necessary regard to 'promoting and facilitating the use of the Welsh language, including through the availability of assessment arrangements that provide for assessment through the medium of the Welsh language, and of qualifications that otherwise promote or facilitate the use of the Welsh language', as set out in Part 2, Section 3(2)(b) of the Bill.

Mention is made in the Bill of the desirability of this approach. It must be stressed that this is not only 'desirable'; it is essential in respect of i) a body that will serve Wales, and; ii) priority qualifications, on a national basis. The current system, which puts Welsh-medium providers, educators and candidates at a disadvantage in respect of some qualifications, particularly vocational qualifications, cannot continue. It is therefore necessary to strengthen this aspect of the Bill, so that Welsh-medium provision is more of a core element on the face of the Bill.

We also recognise that it would be possible for a new body of this kind, by regulating qualifications in Wales only, to put students in Wales at a disadvantage by not garnering confidence and by not ensuring qualifications that equate to those in other countries. Nevertheless, we are confident that the Bill grants the new body an opportunity to develop qualifications that are appropriate, challenging and equivalent to those in other countries.

The Bill also tries to protect students during the transitional period.

The memorandum explains the intention to divide the Welsh Government's vision for Qualifications Wales into two parts – the intention to create a regulatory body, which is included in the Bill, and the intention in the future to develop awarding powers. This is not part of the Bill, of course, and UCAC would like to take this opportunity to state that we remain concerned about the proposed transfer of awarding powers in due course. We do not believe that it is appropriate to combine awarding powers with the responsibility to ensure quality. The combination of 'regulatory + awarding' responsibilities is just as dangerous—and has the same potential to be harmful—as the combination of 'regulating + making' education policy, which we have at the moment.

Certainly, having a category of qualifications labelled restricted priority qualifications is one clear way of ensuring relatively fair qualifications/data in terms of qualifications in our country; however, it is clear that only one awarding body, at present, can ensure that every qualification objective is delivered

It should be noted that winning the political battle in the press is the only way to ensure confidence in the qualifications system in Wales, and that it is unfair to say that the 'main criterion for the success of this legislation is the confidence experienced by employers, HE providers, those delivering qualifications, learners and the wider public about the qualification system in Wales.'

If not, how do you think the Bill should be amended to take account of this?

How significant is this issue? (Please select one option)

1 - This is a key, urgent problem.

<i>2 - This is a problem that needs to be addressed.</i>	
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	
Question 3 – Are the sections of the Bill as drafted appropriate to bring about the purposes described above?	
Yes, on the whole, though the wording needs to be stronger in certain areas, e.g. in respect of references to Welsh-medium provision (see question 2).	
If not, what changes do you believe need to be made to the Bill?	
The wording needs to be stronger in certain areas, e.g. in respect of references to Welsh-medium provision.	
How significant is this issue? (Please select one option)	
<i>1 - This is a key, urgent problem.</i>	
<i>2 - This is a problem that needs to be addressed.</i>	
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	
Question 4 – Has the Welsh Government correctly identified the four main limitations of the current arrangement, and will the two principal aims the Bill sets for Qualifications Wales, as well as the eight matters which it must have regard when exercising its functions, effectively address these limitations?	
Yes, on the whole. We note that the Explanatory Memorandum acknowledges that the list of eight matters is an incomplete list. However, the two principal aims and the list address the four main limitations of the current arrangement, though there is perhaps a case for placing greater emphasis on the learner in the list. It would be possible to add the following to Part 2, Section 2(c):	

<p>"...qualifications that are available <i>to the learner, including vocational qualifications...</i> "</p>	
<p>If you believe there are problems in this area, how do you think they could be resolved?</p>	
<p> </p>	
<p>How significant is this issue? (Please select one option)</p>	
<p><i>1 - This is a key, urgent problem.</i></p>	<input type="checkbox"/>
<p><i>2 - This is a problem that needs to be addressed.</i></p>	<input type="checkbox"/>
<p><i>3 - This is a minor problem</i></p>	<input type="checkbox"/>
<p><i>4 - Not a problem.</i></p>	<input type="checkbox"/>
<p>Question 5 – What are your views on the proposals for determining ‘priority qualifications’ and, within these, ‘restricted priority qualifications’?</p>	
<p>We accept the need, and understand the rationale, for these categories. We accept that the proposals are appropriate. Nevertheless, we believe that, overall, it would be advantageous to provide a wide and suitable range of qualifications for candidates in Wales, wherever possible.</p>	
<p>If you think there are problems in this area, how do you think they could be resolved?</p>	
<p> </p>	
<p>How significant is this issue? (Please select one option)</p>	
<p><i>1 - This is a key, urgent problem.</i></p>	<input type="checkbox"/>
<p><i>2 - This is a problem that needs to be addressed.</i></p>	<input type="checkbox"/>
<p><i>3 - This is a minor problem</i></p>	<input type="checkbox"/>
<p><i>4 - Not a problem.</i></p>	<input type="checkbox"/>
<p>Question 6 – What are your views on the commissioning type process</p>	

Qualifications Wales would undertake under the Bill, in respect of restricted priority qualifications?	
<p>We are uncertain about some aspects of the process. The Bill appears to address the necessary issues and objectives, especially in terms of ensuring equivalence, but there needs to be appropriate progression.</p> <p>Perhaps limiting this to one qualification provider could create different challenges. Questions arise in terms of having a monopoly; also, is there a risk that the Welsh Government could have too great an influence on the methods of assessing a subject if there is only one provider? On the other hand, perhaps the English-medium and Welsh-medium sectors will be in a similar situation for the first time regarding choice of courses and quality of support and resources.</p> <p>It will be necessary to ensure adequate time for commissioning, in order to ensure that qualifications of a high quality can be developed in a timely fashion.</p> <p>It seems that the Bill contains an opportunity for the market, though it is not entirely clear how this will work in practice.</p>	
If you believe there are problems in this area, how do you think they could be resolved?	
How significant is this issue? (Please select one option)	
<i>1 - This is a key, urgent problem.</i>	
<i>2 - This is a problem that needs to be addressed.</i>	
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	
Question 7 – How will the Bill change what organisations do currently and what impact will such changes have, if any?	

Despite the assertion 'that it is not likely that there will be any detrimental effects on competition in the qualifications market', it is clear that the qualifications market in Wales will cease to exist, to all intents and purposes. The simple fact is that only one body (as things currently stand) will be able to achieve all of the objectives of the legislation, in particular the need to meet 'the reasonable needs of learners in Wales' and the issue of 'promoting and facilitating the use of the Welsh language, including through the availability of assessment arrangements that provide for assessment through the medium of the Welsh language, and of qualifications that otherwise promote or facilitate the use of the Welsh language'. We see no reason to oppose this. Indeed, because of how vital it is to provide for both of our country's languages, we do not disagree with it. Furthermore, we see benefits in legislating to ensure a limited number of providers for one qualification, as we want to see qualifications that have equivalence and results that can be compared.

It is inevitable that the Bill will have a major impact on schools that, at present, have a choice of several qualification providers. It is true that the majority of our members will not be detrimentally affected in this respect; the current situation is messy, especially in terms of trying to compare qualifications. We support the proposed change.

We recognise that it is 'an overriding concern that the qualifications represented by Qualifications Wales should be well regarded across its borders, particularly in England, where many Welsh students aim to travel for education or employment purposes.' However, we are content that Welsh Government will legislate to ensure that a different education system is provided in Wales to meet the different needs of Wales. We do not accept the need to see a 'negative impact regarding the practicality of studying for and attaining Wales' qualifications very close to the border where pools of potential students or employees come from two distinct qualifications systems and where any poor level of regard for Wales' qualifications would create a disadvantage for Wales' learners' opportunities.' There is an opportunity here to

offer qualifications that are challenging and that are recognized internationally. The challenge is to market them in an effective manner.

We can only see positive outcomes in terms of those organisations that use Welsh. The only way to ensure 'a living language: a language for living', to ensure that attention must be paid to 'promoting and facilitating the use of the Welsh language, including through the availability of assessment arrangements that provide for assessment through the medium of the Welsh language, and of qualifications that otherwise promote or facilitate the use of the Welsh language', and to 'promote and facilitate the uptake of Welsh language qualifications' is by making the body fully bilingual from the outset. This is would be a major and positive step forward.

If you believe there are problems in this area, how do you think they could be resolved?

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How significant is this issue? (Please select one option)

<i>1 - This is a key, urgent problem.</i>	
<i>2 - This is a problem that needs to be addressed.</i>	
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	

Question 8 – What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

We are not of the view that there are major barriers, and we acknowledge that sufficient consideration has been given to trying to ensure the independence of the body.

If you believe there are problems in this area, how do you think they could be resolved?

How significant is this issue? (Please select one option)	
<i>1 - This is a key, urgent problem.</i>	
<i>2 - This is a problem that needs to be addressed.</i>	
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	
Question 9 – Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly for Wales?	
We accept that it is within Wales’s legislative competence, and we are pleased that it is.	
Question 10 – What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?	
In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.	
We have no objections in terms of the powers that are being conferred. We acknowledge that it will be necessary to give Ministers some statutory powers. There should be full consultation on any subordinate legislation and guidance.	

Question 11 – What are your views on the financial implications of the Bill?

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

There must be an independent body that regulates effectively; the less political interference, the better. We strongly agree with the following statement: 'Removing the function of regulating (general and vocational) qualifications in Wales from government would remove any perception of political interference in regulatory decision-making in Wales.' Furthermore, we do not view the current regulatory position as acceptable, and we wish to see a reduction in the role and interference of Ofqual as soon as we have the capacity to operate here in Wales. This is the only way that we will see qualifications that meet the needs of Wales. It is very important that we have a 'clear expert voice and recognisable brand' to meet these needs. Thus, the preferred option is option 3, which is the only real option, with additional costs that are not overly onerous or unreasonable.

We want to see the Assembly and the Welsh Government being proactive rather than reactive. Therefore, the option of responding to change is not good enough.

However, we would like to reiterate clearly that we do not wish to see a regulatory body that is also an awarding body. Responsibilities must be separated clearly in order to ensure an open system.

Question 12 – Are there any other comments you wish to make about specific sections of the Bill?

We are concerned about the increasingly high costs that have been inflicted upon schools and colleges in recent years in

respect of registering students for qualifications. We are eager to ensure that any fees levied by Qualifications Wales are genuine, so that awarding boards can keep their fees for schools and colleges down.

Does the Bill differentiate sufficiently between the role of the regulator in relation to qualifications and any potential responsibilities in respect of undertaking research?

Is the National Assembly's role sufficiently robust to ensure the accountability of Qualifications Wales as a body?